

When Freedom of Speech appears to be in conflict with personal Rights of Privacy, what should prevail. Freedom of speech was intended to prevent governments from limiting the rights of people to criticize government, or express contrary or unpopular views. However, freedom of speech does NOT imply freedom of access to personal private areas. Freedom of speech applies to public places, but privacy rights means that we all have the right to freedom from unwanted harrassment.

If I am in a restuarant having a special dinner, does anyone have unfettered rights to walk in off the street and come to my table and try to sell me something? If not, then why does anyone have the unfettered right to enter my home through the telephone while I am having dinner and try to sell me something.

If someone comes up to my door uninvited, and I ask them to leave and not return, I could have them arrested for trespassing if they ignore that directive.

A couple of alternative approaches come to mind for dealing with the telemarketing issue.

1. Have some agency (FCC, FTC, Congress) declare that a telephone inside a private area (home, car, business, etc) is part of the private area. As such, an individual has the right to treat unwelcomed intrusions as trespass. The carrier is public, but the individual phone is private.

2. Government can make exceptions to the rights of privacy if a larger public interest is involved (national security, safety, crime investigation, etc). The government could declare certain activites involve a greater public interest (polling information, charities, etc).

3. If these insane court rulings are not overturned, there is one important change that must be implemented. The telemarketing caller should be required to, initially and immediately, declare who they represent, the purpose for the call, and ask for your permission to proceed.

example: " Hello, I am calling on behalf of Sunshine Vacations and I would like to tell you about a special offer. Would you like me to proceed"

Not: " Hello Mr So-and-so, How are you today? blah, blah, blah, blah"